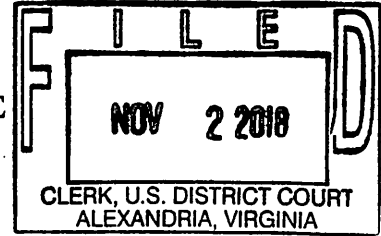


IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA )

v. )

No. 1:18-MJ-526

MERLIN LAGUERRE, )

*Defendant.* )

**AFFIDAVIT IN SUPPORT OF A  
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, John Bamford, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a police officer with the Arlington County Police Department, which is located in northern Virginia, and have been so employed for 10 years. Currently I am assigned as a Task Force Officer with the Federal Bureau of Investigation, and am assigned to the Cyber Crime Squad of the Washington Field Office. In this role, I investigate computer-related crimes. As such, I have participated in numerous investigations involving computer and high technology related crimes including computer intrusions, online extortion, online threats, internet fraud, credit card fraud, and bank fraud. In the course of conducting or participating in criminal investigations, I have been involved in the following: interviewing and debriefing witnesses and informants; conducting physical surveillance; tracing and analyzing Internet Protocol (IP) addresses; tracing and analyzing financial transactions; analyzing telephone pen registers; collecting and analyzing evidence; and preparing and executing search warrants. I have participated in the investigation of financial crimes such as wire fraud and money laundering,

and in cases involving fraudulent activity in connection with computers and email. I have received organizational sponsored computer training as well as computer training at the SANS institute. I also have received training in the area of computer security and network administration.

2. The facts and information contained in this Affidavit are based upon my training and experience, personal knowledge, and observations during the course of this investigation, as well as the observations of other agents involved in this investigation. This Affidavit contains only the information necessary to support probable cause, and it is not intended to include each and every fact and matter observed by me or known to the government.

3. This Affidavit is submitted in support of a Criminal Complaint and Arrest Warrant charging **MERLIN LAGUERRE** with wire fraud, in violation of 18 U.S.C. § 1343. As set forth below, based on the government's investigation, there is probable cause to believe that, within the Eastern District of Virginia and elsewhere, **LAGUERRE** and at least one other individual knowingly and voluntarily joined together with each other and agreed to execute a scheme or artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme or artifice transmitted and caused to be transmitted by wire in interstate commerce any writings, signs, signals, pictures, and sounds.

#### **SUMMARY OF PROBABLE CAUSE**

4. Based on the facts detailed below, I submit that there is probable cause to believe that, within the Eastern District of Virginia, and elsewhere, **LAGUERRE** executed a scheme to defraud American Express (AmEx) and customers of AmEx by obtaining, without authorization,

payment card numbers belonging to AmEx customers and making fraudulent purchases at retail stores via the contactless payment feature of cellular telephones.

5. I know from my training, experience, and work on this investigation that a contactless payment is unlike a traditional card payment in that the purchaser need not swipe a physical card's magnetic strip through a card reader or insert a card's EMV chip into the point-of-sale terminal. Instead, the purchaser can complete the transaction by associating a payment card with a device capable of transmitting radio-frequency identifications (RFID) or near field communication (NFC) and then holding that device in close proximity to a point-of-sale terminal capable of accepting RFID or NFC transmissions. Perhaps the most well-known contactless payment systems are Apply Pay and Google Pay, which utilize NFC technology.

6. I also know from information provided by AmEx that a contactless payment at a retail store located within the Eastern District of Virginia will cause a wire to be transmitted to AmEx's servers located in Arizona.

**A. Initial Information Provided by Best Buy About Fraudulent Activity Occurring on or about June 20, 2018**

7. On or about July 23, 2018, a representative of American Express (AmEx) contacted Arlington County Police Detective John Bamford, who is a Task Force Member of the FBI's Cyber Task Force for the Washington Field Office, and advised that, about a month earlier, on or about June 20, 2018, an AmEx credit card ending in 1004 (hereinafter, the "1004 card") had been used to make three unauthorized purchases at a Best Buy located at 1201 South Hayes Street in Arlington, Virginia, which is within the Eastern District of Virginia. These purchases totaled approximately \$8,968.

8. Detective Bamford subsequently went to the aforementioned Best Buy and spoke with a store supervisor. The store supervisor informed law enforcement of the following:

a. that the individual who had made the fraudulent purchases on or about June 20, 2018, also had ordered an additional item, which was to be picked up at a Best Buy located at 3401 Jefferson Davis Highway in Alexandria, Virginia, which is within the Eastern District of Virginia; and

b. that the name associated with the item to be picked up was “Merlin Laguerre,” as well as a mailing address of 6861 Nottingham Road, Jonesboro, Georgia, and an email of “jordanlagurre29@gmail.com” (*i.e.*, the email in Best Buy’s system was spelled in this manner);

9. Law enforcement thereafter contacted a Best Buy analyst who is a member of the company’s Asset Protection Team, which is within the company’s Security Department. The analyst provided law enforcement with a series of still photographs and video surveillance from multiple Best Buy stores, as well as receipts from June 20, 2018, that were associated with the suspect purchases. As explained further below, the still photographs and video surveillance appear to depict the same individual making purchases at three Best Buy stores on or about June 20, 2018. This individual can be described as an African-American male, who appears to be approximately thirty years old, and who often is wearing a backwards New York Yankee’s baseball cap, dark Adidas pants, white and grey shoes, and a New York Yankee’s jersey on the back of which there is the number 22 and name “Ellsbury.”

**B. Review of Best Buy Records for June 20, 2018 Transaction in Lanham, Maryland**

10. Some of the records provided by Best Buy relate to a purchase made on or about June 20, 2018, at a Best Buy located at 2300 Petrie Lane in Lanham, Maryland. According to those records, two laptops were purchased on that day at approximately 10:38 a.m. Best Buy’s records also indicate that the total cost of the two laptops was approximately \$5,935.98, and one

of the laptops was designated for pick up at a Best Buy located in College Park, Maryland. In addition, Best Buy's records show that both laptops were paid for with an AmEx card ending in 1005 (hereinafter, the "1005 card").

11. Law enforcement consulted with AmEx about this transaction. According to AmEx, the owner of the 1005 card did not authorize the transaction.

12. Best Buy's records indicate that, during this transaction, a customer loyalty card with the number of 4496646315 was provided. The Best Buy receipt associated with the transaction also states, in relevant part, "MERLIN, Thanks for shopping at Best Buy today!"

13. In addition, video surveillance of the purchase depicts an individual matching the description of the person described above in Paragraph 9 at a point-of-sale terminal. The individual is seen utilizing a cellular telephone throughout the transaction, but, at the time of purchase, the subject reaches into his pocket and pulls out an entirely different cellular telephone. It appears from the surveillance that the subject places this second phone near the point-of-sale terminal's NFC reader. (Law enforcement is unable to determine from the surveillance footage the make or model of either of the two phones.)

**C. Review of Best Buy Records for June 20, 2018 Transactions in Arlington and Alexandria, Virginia**

14. Some of the records provided by Best Buy relate to purchases made on or about June 20, 2018, at a Best Buy located at 1201 South Hayes Street in Arlington, Virginia, and a Best Buy located at 3401 Jefferson Davis Highway, in Alexandria, Virginia. Both stores are located within the Eastern District of Virginia.

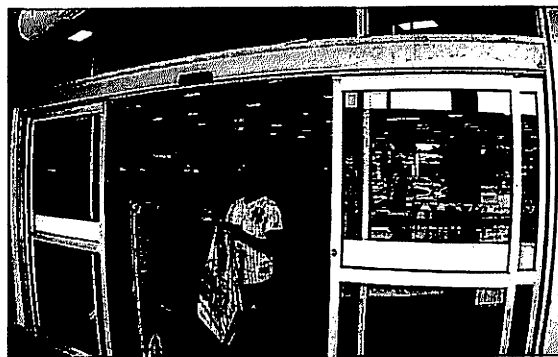
15. According to the records for the Arlington purchase, a laptop was bought on or about June 20, 2018, at approximately 1:58 p.m. Best Buy's records indicate that the total cost of the laptop was approximately \$2,967.99, and that the laptop was designated for pick up at a

Best Buy located at 3401 Jefferson Davis Highway, in Alexandria, Virginia. Best Buy's records also indicate that the laptop was paid for using the 1004 card.

16. Best Buy's records also show that the 1004 card was used to make additional purchases at the Best Buy in Arlington. At approximately 2:04 PM, a \$4,000.00 purchase was made, and then at approximately 2:21 PM a \$2,000.00 purchase was made.

17. Best Buy also provided surveillance footage of the transaction that occurred at approximately 1:58 p.m. in Arlington County along with the footage of the pick-up that occurred at the Best Buy Store in Alexandria. The footage depicts an individual matching the description of the person described above in Paragraph 9. Still shots from this surveillance footage are provided below. The first two images depict the individual arriving at, and making a purchase at, the Best Buy in Arlington, and the third and fourth images depict the individual making a pick up at the Best Buy in Alexandria and then exiting the store.

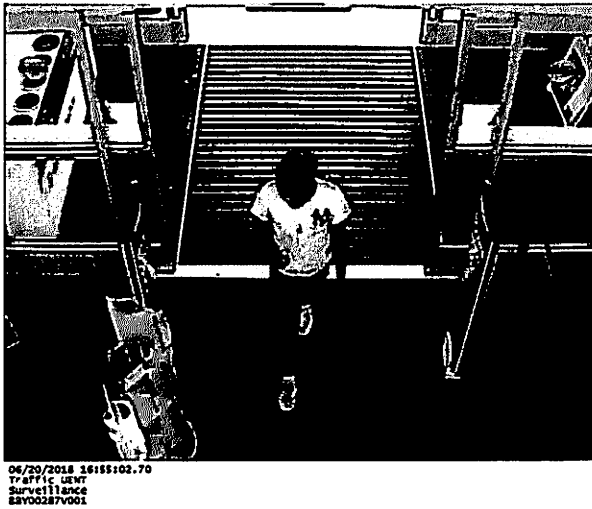




**D. Review of Best Buy Records for June 20, 2018 Transaction in Woodbridge, Virginia**

18. Additional records provided by Best Buy concern purchases made on or about June 20, 2018, at a Best Buy located at 2730 Prince William Parkway in Woodbridge, Virginia, which is within the Eastern District of Virginia. According to Best Buy's records, at approximately 5:08 p.m., the 1004 card was used to buy two laptops at a total cost of approximately \$5,916.38. Best Buy's records indicate that one of the laptops was to be picked up at a Best Buy located in Stafford County, Virginia, which is within the Eastern District of Virginia. The Best Buy receipt for this transaction, markedly, states, in relevant part, "MERLIN, Thanks for shopping at Best Buy today!" AmEx records also show that, at approximately 5:44 PM, the 1004 card was used for another transaction totaling approximately \$6,000, at this same store.

19. Best Buy also provided surveillance footage of the transactions at the Woodbridge store, as well as footage from the store in Stafford County. The footage depicts an individual matching the description of the person described above in Paragraph 9. Still shots from this surveillance footage are provided below. The first two images depict the individual arriving at the Best Buy in Woodbridge and making a purchase at the same Woodbridge Best Buy. The third image depicts the same individual at the checkout counter at the Best Buy Store in Stafford County, and the fourth image shows this person leaving the store in Stafford County.



20. Markedly, Best Buy's purchase records for the \$5,916.38 purchase at the Woodbridge Best Buy, as well as the purchases made at the Arlington Best Buy, show that they were completed via NFC payments. Yet, AmEx's records for these transactions show that the purchases were completed via the magnetic stripes associated with the 1004 or 1005 card. In other words, AmEx's records indicate the cards were swiped at the point-of-sale terminals.

#### **E. Henrico County's Investigation into Similar Fraudulent Activity**

21. According to the Henrico County Police Department (HCPD), it received similar information from AmEx about fraudulent purchases at area stores and undertook its own investigation.



22. HCPD has related that it learned through its investigation that, on or about June 6, 2018, a subject made a fraudulent purchase at an area retail store. The purchase occurred at the Best Buy located at 9901 Brook Road in Glenn Allen, Virginia, which is within the Eastern District of Virginia. There, an individual purchased approximately \$7,107.72 in merchandise using an AmEx card ending in 1002. This purchase, according to information provided to HCPD by AmEx occurred without the authorization of the owner of the card. The individual who engaged in the transaction is pictured below:



23. HCPD also has related that it learned through its investigation that, on or about June 21, 2018, the same subject (as determined by comparison of store video footage) again visited the Glen Allen Best Buy. During this visit, the subject attempted to make a purchase of an item that the store did not keep in stock. The subject then proceeded to order the item for pick up at a different Best Buy. In order to make this order, the subject provided the name of "Merlin Laguerre" and gave an address of 6861 Nottingham Road, Jonesboro, Georgia. The suspect also provided an email address of jordanlagurre29@gmail.com. Markedly, this information matched the information provided on or about June 20, 2018, to the Best Buy in Arlington. According to Best Buy's records, this purchase was made by the subject through the use of gift cards. The individual is pictured below:



24. HCPD also learned that the same individual (based upon comparison of video surveillance) made at least two fraudulent purchases at the Apple Store located at 1180 West Broad Street, Suite 1134 in Richmond, Virginia, on or about June 23, 2018. In this purchase, an AmEx card ending in 1003 was fraudulently utilized to make a series of purchases for a total of \$13,534.23. These purchases were identified by AmEx representatives as being fraudulent transactions using stolen payment card information. A surveillance photograph of the subject is provided below:



25. I submit that a comparison of the photographic stills obtained by HCPD to the images obtained by the FBI indicate that the same individual described above in Paragraph 9 and

pictured in Paragraph 17 and 19 was involved in each of the transactions described above in Paragraphs 22, 23, and 24.

**F. September 5 and 6, 2018 Incident in Henrico County**

26. On or about September 5, 2018, HCPD received information about a stolen payment card number being used to pay for Room 113 at the Residence Inn by Marriot located at 2121 Dickens Road in Richmond, Virginia. HCPD thereafter discovered that the payment card number in question was owned by an individual, who will be identified herein as “W.B.,” and had been used without W.B.’s authorization. As a result, Detective David Monticelli, who was the lead HCPD investigation for the Henrico County fraud transactions described above in Section E, went to the hotel. Det. Monticelli was not in full uniform.

27. Det. Monticelli obtained reservation records from the hotel, which showed that Room 113 was to be rented from on or about August 27 to September 8, 2018. The reservation records also showed that the room had been rented under the name of “Merlin Laguerre,” who had provided a mailing address of “6861 Nottingham Road, Jonesboror,” and a zip code of “30236.”<sup>1</sup> Reservation records further indicated that “jordanlaguerre29@gmail.com,” a slightly different spelling of the email address discussed above in Paragraphs 8(b) and 23 had been provided as an email address.

28. Staff at the hotel advised Det. Monticelli that the individual renting Room 113 was an African-American man. Staff further advised that this individual was with an African-American woman and was utilizing a white, mid-sized SUV.

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<sup>1</sup> The misspelling of Jonesboro is based upon how the address was written on the hotel reservation. Although the reservation did not provide a state for Laguerre’s residence, it should be noted that open source research indicates that the 30236 zip code appears to encompass Jonesboro, Georgia.

29. At approximately 8:10 a.m. on or about September 6, 2018, Det. Monticelli, who was in an unmarked police vehicle in the parking lot of the Residence Inn, saw a white SUV pull into the parking lot. Det. Monticelli observed that an African-American man was driving the vehicle and that an African-American woman was in the front passenger seat of the vehicle. In light of the information provided by the hotel, Det. Monticelli concluded that the occupants of the vehicle likely were the individuals involved in the fraudulent reservation of Room 113. Det. Monticelli, as a result, requested assistance from uniformed officers.

30. In observing the SUV, Det. Monticelli noted that the individuals within the vehicle seemed to be delaying their exit from it. He concluded from this observation that it was likely the individuals had spotted him and suspected he was a law enforcement officer. According to Det. Monticelli, the woman in the SUV eventually exited the vehicle and proceeded to go to Room 113. Det. Monticelli observed that the woman was unable to enter the room, however. (This was because hotel management had changed the lock to the room as a result of the fraudulent payment provided for the room.) Det. Monticelli then saw the woman go back to the vehicle.

31. Next, Det. Monticelli saw the man in the SUV exit the vehicle and begin to walk toward the rental office. Det. Monticelli then drove past the man in order to get a better look at him. Based on this observation of the man, Det. Monticelli came to believe that the man was the same individual depicted in Best Buy's and Apple's surveillance footage from the June 6 and 21, 2018 fraudulent transactions in or around Henrico County. Det. Monticelli also saw that the man was talking on a cell phone and then was picked up by the same white SUV that Det. Monticelli had seen earlier.

32. Det. Monticelli proceeded to follow the SUV until it could be stopped by law enforcement officers in marked police patrol vehicles. At the time of the stop, the two individuals had switched places within the vehicle compared to when they were observed pulling into the hotel parking lot; that is, the woman was now driving the vehicle and the man was in the front passenger seat.

33. The HCPD law enforcement officers involved in the car stop soon discovered that an odor was emanating from the vehicle, and that, consistent with their training and experience, the odor appeared to be of marijuana. Law enforcement officers took the man riding in the front passenger seat, who subsequently was identified as **LAGUERRE**, into custody. Also removed from the vehicle was the female driver.

34. At the scene of the car stop, Det. Monticelli provided **LAGUERRE** with a verbal *Miranda* warning and **LAGUERRE** stated that he understood his rights. Det. Monticelli asked **LAGUERRE** if he had been to any Best Buy or Apple stores located at the Short Pump Town Center in the past six months and **LAGUERRE** stated he had not been into the stores.<sup>2</sup>

35. Det. Monticelli also interviewed the female driver. This interview occurred at the scene of the car stop. The female driver identified herself as **LAGUERRE**'s girlfriend for the last three months and stated that they had just arrived back from New York where they had been visiting family.

36. Later on or about September 5, 2018, Det. Monticelli had another voluntary interview with the female driver. During this interview, Det. Monticelli showed the female driver a number of stills from the surveillance footage that Best Buy and Apple had provided in

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<sup>2</sup> This is the location of the Apple Store located at 1180 West Broad Street, Suite 1134 in Richmond, Virginia.

connection with the June 6 and 21, 2018 fraudulent transactions in or around Henrico County. The female driver identified the man depicted in the photographs as **LAGUERRE**. She also admitted to obtaining an Apple laptop from a Best Buy store located in or around the Midlothian Turnpike, and stated that she gave the laptop to **LAGUERRE**. She, however, did not have any more information about the laptop's whereabouts.

37. HCPD law enforcement has related that, during the course of its investigation, it learned that a few days earlier, on or about September 2, 2018, the first card utilized to pay for Room 113 was a "chargeback."<sup>3</sup> Law enforcement learned that the manager of the hotel, M.C., went to the room, observed luggage still in the room, and assumed that the room remained occupied.

38. M.C. then called **LAGUERRE** regarding the "chargeback." According to M.C., **LAGUERRE** stated that he was out of town but would be returning. Laguerre provided M.C. a new payment card number to pay for the room but this number failed to clear. M.C. then asked **LAGUERRE** for a different number, at which point M.C. heard Laguerre ask an unknown individual, "hey girl, can I use your number?" **LAGUERRE** then provided M.C. with a third payment card number. (This number was the payment card number owned by W.B.)

39. According to M.C., W.B. called the hotel approximately two hours after the number provided by **LAGUERRE** went through the hotel's payment system. M.C. asked W.B. if **LAGUERRE** was known to W.B., and W.B. replied in the negative.

#### **G. Additional Fraudulent Best Buy Purchases**

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<sup>3</sup> I know from my training and experience that a "chargeback" is when a payment card provider demands that a retailer, merchant, or other seller of good or services pays back the loss accrued by a payment card provider due to the retailer/merchant/seller accepting a fraudulent payment card.

40. As detailed above, law enforcement has identified more than \$49,000 in fraudulent purchases made by **LAGUERRE** at Best Buy and Apple retail stores within the Eastern District of Virginia and elsewhere. By comparing Best Buy transactions in which Best Buy loyalty card number 4496646315 was provided to instances of fraud identified by AmEx, law enforcement has identified more than \$55,000 in additional fraudulent purchases for which it is reasonable to believe that **LAGUERRE** made, including the following:

a. On or about June 6, 2018, an AmEx card ending in 1002 was fraudulently utilized to make a purchase for \$6,674.87 at the Best Buy Store located at 7297 Battle Hill Drive in Mechanicsville, Virginia. Part of this purchase consisted of two laptops that were ordered for pickup at the Best Buy Store located at 9901 Brook Road in Glen Allen, Virginia. After the payment card ending in 1002 was utilized fraudulently in Mechanicsville, American Express records show that the same card was used fraudulently at the Best Buy Store located in Glen Allen, Virginia.

b. On or about June 16, 2018, an AmEx card ending in 2005 was fraudulently utilized to make a purchase for \$6,685.14 at the Best Buy Store located at 1560 West Koger Center Boulevard in Richmond, Virginia.

c. On or about June 17, 2018, an AmEx card ending in 2001 was fraudulently utilized to make a purchase for \$5,896.78 and a purchase of \$6,000 at the Best Buy Store located at 1615 Emmet Street North in Charlottesville, Virginia.

d. On or about June 18, 2018, an AmEx card ending in 1002 was fraudulently utilized to make a purchase for \$5,935.98 at the Best Buy Store located at 6722 Ritchie Highway in Glen Burnie, Maryland.

e. On or about June 23, 2018, an AmEx card ending in 1003 was fraudulently utilized to make purchases for \$2,527.19 and \$6,000 at the Best Buy Store located at 7297 Battle Hill Drive in Mechanicsville, Virginia.

f. On or about June 30, 2018, an AmEx card ending in 1009 was fraudulently utilized to make a purchase for \$8,423.96 at the Best Buy Store located at 1541 Carl D Silver Parkway in Fredericksburg, Virginia.

g. On or about July 4, 2018, an AmEx card ending in 1005 was fraudulently utilized to make a purchase for \$5,459.96 at the Best Buy Store located at 237 Crossroads Boulevard in North Carolina.

h. On or about July 5, 2018, an AmEx card ending in 2002 was fraudulently utilized to make a purchase for \$3,332.48 at the Best Buy Store located at 7001 Fayetteville Road in North Carolina.

### CONCLUSION

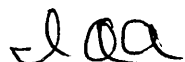
41. Based on the facts set forth in this Affidavit, I submit that there is probable cause to believe that **MERLIN LAGUERRE** did commit wire fraud, in violation of 18 U.S.C. § 1349. I thus respectfully request the issuance of an Arrest Warrant for **MERLIN LAGUERRE**.

Respectfully Submitted,



John Bamford  
Task Force Officer, Federal Bureau of Investigation

Subscribed and sworn to before me  
this 2<sup>nd</sup> day of November, 2018.



/s/

Ivan D. Davis

United States Magistrate Judge